



County of Los Angeles
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July 5, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**JOINT RECOMMENDATION WITH THE ACTING DIRECTOR OF
PUBLIC WORKS ON STATE LEGISLATION (3-VOTES)**

This letter contains recommendations to support **SB 287 (Cox)** and **AB 1511 (Evans)**, if amended, which would allow certain counties to use the design-build contract method for projects to construct buildings and directly related improvements, and support any other legislation which gives the County design-build authority.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the recommended positions contained in this letter on the following legislative proposals:

1. **SB 287 (Cox)** which allows specified counties to use the design-build contract method for projects to construct buildings and directly related improvements – **SUPPORT IF AMENDED**
2. **AB 1511 (Evans)** which allows specified counties to use the design-build contract method for projects to construct buildings and directly related improvements – **SUPPORT IF AMENDED**
3. Support any other legislation which gives the County design-build authority for projects to construct buildings and directly related improvements; and
4. Instruct the County's legislative advocates in Sacramento, working with the Department of Public Works, and other interested individuals and organizations to advocate these positions on behalf of Los Angeles County.

BACKGROUND

Existing law: 1) requires local officials, under the Local Agency Public Construction Act, to invite bids for construction projects and then award contracts to the lowest responsible bidder under the traditional design-bid-build project delivery system; 2) defines "design-build" as a procurement process in which both the design and construction of a project are procured from a single entity; and 3) allows seven counties (Alameda, Contra Costa, Sacramento, Santa Clara, Solano, Sonoma, and Tulare), six cities, one special district, transit districts, and school districts to use the design-build method if specific requirements regarding cost thresholds and selection criteria are met. Additionally, design-build contracts with a cost ranging from \$10 million to \$20 million must be awarded to the lowest responsible bidder and contracts costing more than \$20 million must be awarded to the lowest responsible bidder or by best value which may include criteria such as price, features, functions, life-cycle costs, and "other criteria deemed appropriate". Limited design-build authority was granted to specified local entities until January 1, 2006.

Under the design-build method, a single contract covers the design and construction of a project with a single company or consortium that acts as both the project designer and builder. The design-build entity arranges all architectural, engineering, and construction services, and is responsible for delivering the project at a guaranteed price and schedule based upon performance criteria set by the public agency.

SB 287 (Cox)

As amended on June 6, 2005, SB 287 authorizes twenty additional counties, including Orange and San Diego, to enter into design-build contracts, extends the sunset of the authorization from January 1, 2006 to January 1, 2011, and makes specified changes to the conditions and requirements for design-build contracting by counties, including eliminating the cost thresholds for employing design-build contracting and authorizing counties to award projects based on either lowest responsible bidder or best value criteria. SB 287 also tightens the definition of best value by requiring that price, features, functions, and life-cycle costs are the objective criteria by which best value is to be determined.

According to the Assembly Committee on Local Government analysis, proponents of design-build contend that project schedule savings can be realized because only a single request for proposals is needed to select the project's designer and builder. The more traditional design-bid-build project approach requires the separate selection of the design consultant or contractor, completion of design, and then advertising for bids and selection of the construction contractor. Proponents add that design-build allows the overlap of design and construction activities, resulting in additional time savings and lower

project costs. By avoiding the delays and change orders that result from the traditional design-bid-build method of contracting, proponents argue that officials can deliver public works faster.

According to the Committee analysis, opponents of design-build have contended that the cost savings afforded by design-build are overstated and unproven, citing cases where costs have significantly increased because the public agency loses control over the project. Opponents also caution that design-build endeavors are extremely complicated from a management perspective, requiring a thorough understanding of the roles and responsibilities of each participant in the process. In the past, opponents have also objected to the fact that, for projects costing over \$20 million, an authorized county has the option of awarding a contract to the lowest responsible bidder or a bidder on a best value basis, which currently allows local agencies to use "other criteria deemed appropriate". Furthermore, opponents indicate that design-build may exclude smaller, local firms that lack the capital or expertise to compete against big partnerships or vertically integrated companies.

The Department of Public Works (DPW) indicates that design-build has become one of the preferred contracting processes for many design and construction projects, due to its advantages over the traditional design-bid-build process, including: 1) establishing a single source of responsibility; 2) shielding local agencies from direct exposure to defects and omissions in the design or construction; 3) reducing total project delivery time through direct collaboration of the Architect-Engineer (A/E) and the constructor; 4) reducing the number of formal change orders originating from local agencies; 5) reducing total project cost through avoidance of claims and delays; and 6) altering the traditionally adversarial relationship between the A/E and the constructor into a more collaborative approach because of the interdependence necessitated by the design-build process.

DPW indicates that although design-build is not a panacea, it is a valid, tried and tested method for delivering capital projects that, if managed appropriately, can result in improved design and construction project performance on a variety of fronts. Therefore, DPW recommends that the County support SB 287, if amended to include Los Angeles County as an entity eligible to use the design-build method.

The CAO Financial Asset Management Branch also indicates that the design-build method gives local agencies increased flexibility with regard to projects to construct buildings, and recommends that the County support SB 287 if amended to include Los Angeles County.

Therefore, we recommend that the County support SB 287 if amended to include Los Angeles County.

SB 287 is co-sponsored by the Counties of Placer and Sacramento, and supported by the Associated General Contractors of California, the California State Pipe Trades Council, California Association of Electrical Workers, Western States Council of Sheet Metal Workers, and the counties of Alameda, Contra Costa, Monterey, San Diego, Santa Clara, and Solano.

The American Federation of State, County, and Municipal Employees, AFL-CIO, and the Consulting Engineers and Land Surveyors of California oppose SB 287 unless amended.

SB 287 is set for hearing on June 22, 2005 in the Assembly Local Government Committee.

AB 1511 (Evans)

As amended on June 8, 2005, AB 1511: 1) extends the sunset date in the design-build statute from January 1, 2006 to January 1, 2011; 2) adds nineteen counties to the list of counties eligible to use the design-build contracting method; 3) lowers the minimum price threshold for design-build projects that counties must award to the lowest responsible bidder from \$10 million to \$5 million; 4) declares that it is not the Legislature's intent to authorize the design-build process for transportation facilities, including roads and bridges; 5) defines "project" as the construction of a building and improvements directly related and necessary to the construction of the building; 6) limits the definition of best value to the criteria related to price, features, functions, and life cycle costs; and 7) requires county officials to give equal weight to price, technical design and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record when they award contracts in a best value competition.

DPW indicates that public agencies are seeking firms that give more attention to project constructability and that practice total quality management, and are finding that design-build is one method that addresses most of these concerns by providing a single source of accountability and responsibility for its projects. DPW indicates that this simplifies the contractual interrelationships of the parties and reduces legal entanglements.

DPW and the CAO Financial Asset Management Branch recommend that the County support AB 1511 if amended to include Los Angeles County. **Therefore, we recommend that the County support AB 1511 if amended to include Los Angeles County.**

AB 1511 is sponsored by the author, and supported by the California Association of Councils of Government, and the Counties of Alameda, Butte, Contra Costa, Del Norte, Fresno, Humboldt, Madera, Mariposa, Mendocino, Merced, Napa, Placer, San Diego, San Joaquin, San Luis Obispo, Santa Clara, Shasta, Siskiyou, Stanislaus, Yolo, and Yuba. AB 1511 is opposed by the La Raza Roundtable.

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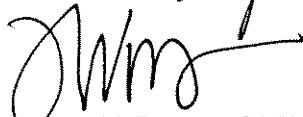
This measure is currently in the Senate Local Government Committee awaiting a hearing date.

Upon approval by your Board, these recommended positions will be added to the State Legislative Agenda and are consistent with the County Strategic Plan.

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer



for DONALD L. WOLFE
Acting Director of Public Works

DEJ:DLW:GK
MAL:EW:ib

c: County Counsel
Executive Office
Department of Public Works